

**TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE  
PATENTING REJECTION OVER A PENDING SECOND APPLICATION**

Docket No.

3715.12-1

In re Application of: **GIOVANNI M. PAULETTI ET AL.**

Application No. **10/600,849**

Filed: **06/20/2003**

**JAN 22 2008**

For: **INTRAVAGINAL MUCOSAL OR TRANSMUCOSAL DELIVERY OF ANTIMIGRAINE AND ANTINAUSEA  
DRUGS**

The owner, UMD, INC. of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second Application Number 11/126,863, filed on 05/10/2005.

The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney of record. 01/22/2008 FHETEKI1 00000025 161331 10600849

3. Owner/applicant is ☒ Small entity ☐ Large entity 14 65.00 DA

The terminal disclaimer fee under 37 CFR 1.20(d) is \$65.00 and is to be paid as follows:

- ☒ A check in the amount of the fee is enclosed.  
☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 16-1331.  
☐ Payment by credit card. Form PTO-2038 is attached.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

PTO suggested wording for terminal disclaimer was

- ☒ unchanged. ☐ changed (if changed, an explanation should be supplied.)



Signature

Name and Address of Person Signing

**HANA VERNY (REG. NO. 30,518)**

**PETERS VERNY, LLP**

**425 SHERMAN AVENUE, SUITE 230**

**PALO ALTO, CA 94306**

**TEL: (650) 324-1677**

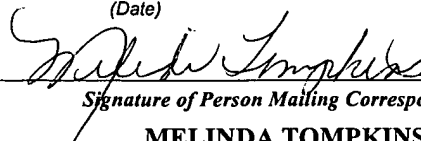
**FAX: (650) 324-1678**

Dated: JANUARY 16, 2008

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on

01/16/2008

(Date)



Signature of Person Mailing Correspondence

**MELINDA TOMPKINS**

Typed or Printed Name of Person Mailing Correspondence



**Terminal Disclaimer To Obviate A Double  
Patenting Rejection Over A Prior Patent**

Docket No.  
3715.12-1

In Re: Application Of: **GIOVANNI M. PAULETTI, ET AL.**

| Application No. | Filing Date | Examiner          | Customer No. | Group Art Unit | Confirmation No. |
|-----------------|-------------|-------------------|--------------|----------------|------------------|
| 10/600,849      | 06/20/2003  | SCHLIENTZ, NATHAN | 23308        | 1616           | 8490             |

Invention: **INTRAVAGINAL MUCOSAL OR TRANSMUCOSAL DELIVERY OF ANTIMIGRAINE AND  
ANTINAUSEA DRUGS**

Owner of Record: **UND, INC.**

**COMMISSIONER FOR PATENTS:**

The above-identified owner of record of a **100** percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. **6,197,327**. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors and/or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

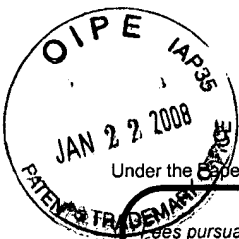
2. ☒ The undersigned is an attorney of record.

  
\_\_\_\_\_  
Signature

Dated: **JANUARY 16, 2008**

**HANA VERNY (REG. NO. 30,518)**  
\_\_\_\_\_  
Typed or Printed Name

- ☒ Terminal disclaimer fee under 37 C.F.R. 1.20(d) included.  
☐ PTO suggested wording for terminal disclaimer was unchanged.  
☐ Certification under 37 C.F.R. 3.73(b) is required if terminal disclaimer is signed by the assignee.



PTO/SB/17 (10-07)

Approved for use through 06/30/2010. OMB 0651-0032  
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

# FEE TRANSMITTAL For FY 2008

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) \$65.00

**Complete if Known**

|                      |                       |
|----------------------|-----------------------|
| Application Number   | 10/600,849            |
| Filing Date          | 06/20/2003            |
| First Named Inventor | PAULETTI, GIOVANNI M. |
| Examiner Name        | SCHLIENTZ, NATHAN W.  |
| Art Unit             | 1616                  |
| Attorney Docket No.  | 3715.12-1             |

**METHOD OF PAYMENT** (check all that apply)☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_☒ Deposit Account Deposit Account Number: 16-1331 Deposit Account Name: PETERS VERNY, LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee☒ Charge any additional fee(s) or any underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☐ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

| Application Type | FILING FEES |                       | SEARCH FEES |                       | EXAMINATION FEES |                       | Fees Paid(\$) |
|------------------|-------------|-----------------------|-------------|-----------------------|------------------|-----------------------|---------------|
|                  | Fee (\$)    | Small Entity Fee (\$) | Fee (\$)    | Small Entity Fee (\$) | Fee (\$)         | Small Entity Fee (\$) |               |
| Utility          | 310         | 155                   | 510         | 255                   | 210              | 105                   |               |
| Design           | 210         | 105                   | 100         | 50                    | 130              | 65                    |               |
| Plant            | 210         | 105                   | 310         | 155                   | 160              | 80                    |               |
| Reissue          | 310         | 155                   | 510         | 255                   | 620              | 310                   |               |
| Provisional      | 210         | 105                   | 0           | 0                     | 0                | 0                     |               |

**2. EXCESS CLAIM FEES**

| Fee Description                                    | Fee (\$) | Small Entity Fee (\$) |
|--|----------|-----------------------|
| Each claim over 20 (including Reissues)            | 50       | 25                    |
| Each independent claim over 3 (including Reissues) | 210      | 105                   |
| Multiple dependent claims                          | 370      | 185                   |

| Total Claims | Extra Claims | Fee (\$) | Fee Paid (\$) |
|--------------|--------------|----------|---------------|
| - 20 or HP = | x            | \$50.00  | = \$0.00      |

| Indep. Claims | Extra Claims | Fee (\$) | Fee Paid (\$) |
|---------------|--------------|----------|---------------|
| - 3 or HP =   | x            | \$210.00 | = \$0.00      |

HP = highest number of independent claims paid for, if greater than 3.

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$260 (\$130 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

| Total Sheets | Extra Sheets | Number of each additional 50 or fraction thereof | Fee (\$)                                | Fee Paid (\$) |
|--------------|--------------|--|---|---------------|
| - 100 =      | 0            | 0  | (round up to a whole number) x \$260.00 | = \$0.00      |

**4. OTHER FEE(S)**

Non-English specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): TERMINAL DISCLAIMER

\$65.00

**SUBMITTED BY**

|                   |             |                                      |        |           |                |
|-------------------|-------------|--------------------------------------|--------|-----------|----------------|
| Signature         |             | Registration No.<br>(Attorney/Agent) | 30,518 | Telephone | (650) 324-1677 |
| Name (Print/Type) | DIANA VERNY |                                      |        | Date      | 01/16/2008     |

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.